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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/591,189

05/25/2007

Torsten Barz

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HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO, IL 60606

EXAMINER

GIMIE, MAHMOUD

ART UNIT

PAPER NUMBER

3747

MAIL DATE

DELIVERY MODE

08/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/591,189

Applicant(s)

BARZ ET AL.

Examiner

Mahmoud Gimie

Art Unit

3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/30/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 5 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim 5 has not been further treated on the merits.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by .
Honda discloses a delivery unit, with a baffle (D), with a fuel pump (C) arranged therein and with a radial-on flow filter (30, E) which is arranged on the bottom (b) of the baffle and which is formed by shaped elements (33) projecting axially from the bottom of the baffle, so that an axially running gap (not numbered, figure 10) is formed in each case between two adjacent shaped elements (33) in each case, and which surrounds an inlet port (20, 35) arranged in the bottom of the baffle, characterized in that at least one region (31) for throughflow is arranged perpendicularly to the gaps (see figure 10) and perpendicularly to the throughflow *direction*, and in that the at least one region (31) connects at least two adjacent gaps.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4 and 6-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honda (US 6,464,872).

If applicant argues that the at least one region (31) for throughflow is not perpendicularly to the throughflow direction, then this rejection under 35 U.S.C. 103(a) applies.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to try different positions of the bar shaped portion (31) relative to the ring shaped portion (32) to achieve the best filtration effect while supporting the shape of the filter cloth (E) to prevent impairment of the suction ability of the fuel pump.

Regarding claim 2, the regions (31) for throughflow are formed by at least one, preferably three, standing elements (33) arranged on the bottom (b) of the baffle (D) and having an equal axial length than the shaped elements.

Honda does not show standing elements having greater axial length than the shaped elements.

At the time the invention was made; it would have been an obvious matter of design choice to a person of ordinary skill in the art to vary the axial length of the shaped

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elements because applicant has not disclosed that doing so provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, further, would have expected applicant's invention to perform equally well with standing elements having the same axial length as disclosed by Honda because the invention of Honda provides filtration and support for a filter cloth.

Regarding claim 3, the regions (31) for throughflow are formed by shaped elements (33) with different axial lengths (obvious design choice).

Regarding claim 4, the shaped elements (33) are arranged in a plurality of rows lying (optional design choice) one behind the other in the throughflow direction.

Regarding claim 5, the shaped elements (33) of equal axial length are arranged in a row.

Regarding claim 6, the shaped elements (33) of the radially outer row possess a smaller axial length than the shaped elements of the radially inner rows (obvious design choice).

Regarding claim 7, the axially running gaps (not numbered) between the shaped elements (33) possess different lengths and widths.

Regarding claim 8, the shaped elements (33) are arranged in segments on the bottom (b) of the baffle (D).

Regarding claim 9, the segments are arranged releasably on the bottom (b) of the baffle (D).

Regarding claim 10, the segments are shaped in one piece on the baffle (D).

Regarding claim 11, the distance between two adjacent segments is no greater than the distance of the shaped elements from one another (obvious design choice).

Regarding claim 12, the segments are arranged in a plurality of rows in the throughflow direction (obvious design choice).

Regarding claim 13, the shaped elements (33) are arranged circularly.

Regarding claim 14, the shaped elements (33) are arranged in the form of a polygon (obvious design choice).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show fuel delivery pumps.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mahmoud Gimie whose telephone number is 571-272-4841. The examiner can normally be reached on Monday-Friday between 7 a.m. -3:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen K. Cronin can be reached on 571-272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MG


MAHMOUD GIMIE
PRIMARY EXAMINER